IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Surjan Singh & Ors. Vs. Mahengal Singh & Ors

S. B. CIVIL WRIT PETITION NO.5933/1992
UNDER ARTICLES 226, 227, 14 and 300A OF THE CONSTITUTION OF INDIA

Date of Order : 2nd August, 2007

PRESENT

HON'BLE MR. JUSTICE PRAKASH TATIA

Mr.SC Bhandari, for the petitioners.
Mr.SN Tiwari, Dy.GA, for the respondent- State.
Mr. Sudheer Sharma, for the respondents.

BY THE COURT:

Heard learned counsel for the parties.

Three courts below concurrently decided against the plaintiffs Kehar Singh, Jalore Singh, Balwant Singh and Sant Singh and dismissed the plaintiffs' suit for declaration of Khatedari rights and for partition of the agricultural land described in schedule '*Ka*' and '*Kha*' appended to the suit. The trial court dismissed the suit of the plaintiffs by

judgment and decree dated 1st August, 1973. The Revenue Appellate Authority, Bikaner dismissed the appeal of the petitioners'-plaintiffs' vide judgment and decree dated 3rd Nov., 1977 and the Board of Revenue dismissed the second appeal vide judgment and decree dated 16th July, 1989.

The suit was filed by above mentioned three plaintiffs in the court of Asstt. Collector, Hanumangarh as back as on 19th April, 1969 alleging that the plaintiffs and defendants are decedents of one Anop Singh. The pedigree is given in para no.1 of the plaint. It is alleged that plaintiffs' and defendants'-respondents' grand-father Attar Singh had two brothers Jawla Singh and Gurdayal Singh. They constituted a joint Hindu family. They were possessing agricultural land in village Rodi of Faridkot in State of Punjab. With the expansion in family, the family found it difficult to carry on with the limited source of income from the agricultural land in Punjab, therefore, they decided to purchase agricultural land in Bikaner and, therefore, they purchased the land in the erstwhile State of Bikaner in village Gurusar Tehsil Hanumangarh in the year 1911. The land was duly entered in the *Misal Bandobast* of the relevant year of 1911. The

details of the said land is described in annexed schedule '*Ka*', which is shown in four blocks. One block consisting of six Khasra nos. measuring 597 bigha 7biswas, second block consisting of 5 Khasra nos having total measurement of 512 bighas 7 biswas, third block having 8 khasra nos having measurement of 590 bigha 6 biswas and the last fourth block having 9 khasras nos. measuring 366 bigha 14 biswas. In total, these land descried in schedule '*Ka*' is 1967 bigha 4 biswas It is also alleged that land described in schedule '*Kha*' was also Khatedari land of plaintiffs and defendants.

The plaintiffs further pleaded that since it was difficult to manage the agricultural land at two places, therefore, it was decided that the plaintiffs-ancestor Attar Singh will manage the property situated in village Rodi of Faridkot whereas Attar Singh's brothers Jawla Singh and Gurdayal Singh will look after the agricultural land of village Gurusar in the State of Bikaner. Attar Singh became blind about 10 years before he died and, therefore also, Jawla Singh and Gurdayal Singh continued to manage the property of village Gurusar. However, the family continued as joint family

even after the death of Attar Singh. According to plaintiffs because of some dispute between the parties, the plaintiffs and defendants partitioned their agricultural land situated in village Rodi of Punjab, but at that time, the property of village Gurusar was not partitioned. The plaintiffs subsequently came to know that the defendants got the name of Attar Singh removed from the revenue record. Ultimately, plaintiffs demanded their 1/3rd share from the defendants, but that was denied by the defendants and, therefore, they have filed the suit for declaration of their Khatedari rights in the agricultural because of the reason that their names were wrongly removed from the revenue record. The plaintiffs also sought relief of partition and possession of the land of their share.

The defendants submitted their written statement and took a specific plea that so far as pedigree is concerned, that is true, but purchase of any property as joint Hindu family property, was denied. The defendants also stated that Attar Singh, Jawala Singh and Gurdayal Singh had separate properties and in their life time, they started living separately and also they were depending upon their

separate agricultural lands. The land of village Gurusar was also purchased by these persons individually by their own income. So far as land of Attar Singh is concerned, it is stated that at the time of purchasing the land, there was no irrigation facilities and the land was full of sand-dunes, therefore, Attar Singh did not pay the land revenue to the State and ultimately, his land was cancelled by order dated 31st July, 2010 passed in file number 945. It is stated that Attar Singh left the village Gurusar and the State of Rajasthan within three years and he continued to live in Punjab till he died. The land of said Attar Singh was entered in the name of the defendants and the same was continued in various land survey since Samwat Year 2012 when the Rajasthan Tenancy Act, 1955 came in operation. The name of the defendants were entered in revenue record in settlements without there being any objection from Attar Singh or any of his successor. The plaintiffs filed the suit after about more than 50 years which is because of the reason that in the year 1910 land cost was negligible as about Rs. 1 only per bigha. Its value increased by the year 1969 several times.

In the trial court, the plaintiff gave his statement as PW-1 and produced witnesses PW-2 Gulab Chand, the Record-keeper of the village Gurusar and PW-3 Daulat Ram – Girdharwar of Faridkot. The plaintiff did not produce any documents, but the plaintiffs' witness Gulab Chand produced file no.945, which was decided on 31st July, 1910 whereas PW-3 Daulat Ram produced record of the land of Punjab State. One more witness was produced by the plaintiffs, who was deed writer PW-4 Charan Das. Since the record produced before the court below was in Urdu language, therefore, he translated the document in Hindi and proved it to be the correct copy of the original document. In defence, the defendant Jogendra Singh gave his statement and produced witness DW-2 Banwari Lal who was office *Kanoogo* in the revenue office.

The trial court while deciding issue no.1 held that plaintiffs failed to prove that the land of Rajasthan was purchased by the income of joint Hindu family of the plaintiffs and defendants. The trial court while deciding issue no.2 held that land in question was obtained by Attar Singh, Jawala Singh and Gurdayal Singh from the erstwhile

State of Bikaner separately and ultimately dismissed the suit of the plaintiffs vide judgment and decree dated 1st August, 1973. The Revenue Appellate Authority also considered the facts of the case in more detail and with more reasons upheld the findings recorded by the trial court. The Revenue Board also concurred with the findings recorded by the two courts below and dismissed the second appeal of the plaintiffs' vide judgment and decree dated 16th July, 1989. Hence, this writ petition.

Learned counsel for the petitioners initially and vehemently submitted that, in fact, there exists no file no.945 as alleged by the defendants wherein the land of Attar Singh was cancelled by order dated 31st July, 1910. Learned counsel for the petitioners vehemently submitted that the three courts below committed serious error of law in relying upon the alleged mutilated record of one file, which was shown to be having no.945. According to learned counsel for the petitioners, the petitioners tried their level best to obtain the certified copy of the order dated 31st July, 1910 to know whether Attar Singh's land was ever cancelled by the order of any competent authority

or not. The petitioners made all their efforts not only before the Board of Revenue for the first time, but even before the Revenue Appellate Authority submitted an application in writing to raise their objections with regard to order dated 31st July, 1910 and the learned Revenue Appellate Authority told learned counsel for the plaintiffs'-petitioners' that before pronouncing the judgment he will look into the file no.945 and will give opportunity to the plaintiffs'-appellants' counsel to address on the basis of the facts of file no.945. That opportunity was not given to the plaintiffs-appellants to show that Attar Singh's land was never cancelled. File no.945 was summoned by the Board of Revenue from the concerned department, but copy of the relevant document was not made available to the petitioners-appellants by the Board of Revenue despite the petitioners' request to Board of Revenue by submitting proper application. In the Board of Revenue, an application was also submitted by the plaintiffs-appellants, which was dealt with by the Board of Revenue and the Board of Revenue passed an order that if the copy cannot be prepared because of the condition of the document, from

the machine of the Board of Revenue, then the copy may be got prepared from machine outside the Board of Revenue at the cost of plaintiffs-appellants. According to learned counsel for the petitioners despite this, the copy from the said record was not made available to the petitioners. It is also submitted that the Board of Revenue did not consider this aspect of the matter and again relied upon the same file no.945 to discard the claim of the plaintiffs on the basis of Khatedari rights of the ancestor Attar Singh. Learned counsel for the petitioners vehemently submitted that the petitioners submitted an application before this Court also for summoning the record i.e., file no.945, which according to defendants contains the orders dated 31st July, 1910 and 1st April, 1913. This Court after taking note of that prayer and order dated 5th March, 1997, observed that case has since ripe, therefore, the entire writ petition can be heard. According to learned counsel for the petitioners, if the Khatedari rights of Attar Singh have not been cancelled by any order then the defendants cannot claim any right over the land of Attar Singh on the basis of wrong entries made in revenue record.

According to learned counsel for the petitioners, the contesting private respondents did not choose to file reply to the writ petition, which they should have filed. Learned counsel for the petitioners also submitted that High Court Rules clearly provides that the defendants shall file reply to the writ petition and learned counsel for the petitioners also relied upon the judgment of this court delivered in the case of Smt. Anand Kanwar etc. etc.Vs. State of Rajasthan & Ors reported in 1991 RLR (1) 270 wherein this Court held that respondent is required to file reply and counter affidavit disputing correctness of the facts mentioned in the writ petition and in absence of it, the facts pleaded by the petitioner can be treated to have been admitted by the respondent. Learned counsel for the petitioners referred Rule 383 of the Rajasthan High Court Rules, which provides that all questions arising for determination before the court in writ shall be decided ordinarily upon affidavits. Learned counsel for the petitioner relied upon the judgment of this Court in support of his contention reported in ILR 1962 12 (Raj.) 327 = AIR 1962 (Raj.) 250. Learned counsel for the petitioners further vehemently submitted that the learned

SDO (Asstt. Collector) was impleaded as party in the writ petition, but he was formal party, still he submitted reply to the writ petition whereas he has not submitted his reply to writ petition as officer incharge of the State to put forward the case of State. It is also submitted that despite petitioners' efforts, the respondent-State did not produce the record of file no.945. Learned counsel for the petitioners also submitted that the SDO wrongly sent the record on earlier occasion and, therefore, by that he committed contempt of this Court.

According to learned counsel for the petitioners when the documents produced by the petitioners i.e., *Misal Bandobast* of Samwat Year 2008-11 and *Jamabandi* of the Samwat Year 2008-11 prove the fact of Khatedari rights of Attar Singh and defendants failed to prove that the Khatedari of Attar Singh was cancelled in the calender year 1910 or in any year, then there was no option for the courts below to not to pass decree for declaration in favour of plaintiffs for at least the land measuring 597 bigha 7 biswa, which was recorded in the name of Attar Singh. The plaintiffs gave their statement on oath that plaintiffs'

ancestor and defendants' ancestor had joint holding in the State of Punjab and that was partitioned and that partition was proved by producing the certified copy of the relevant documents, which are Ex.P/3 to P/6 wherein division of Punjab agricultural land between the ancestors of the plaintiffs and defendants has been recorded. The relations between the parties is admitted fact. The unity of title in some properties fully proved. Not only this, but even in the document produced by the defendants as Ex.D/1 itself though there is interpolation in the document and it has wrongly been mentioned in Ex.D/1 that Khatedari rights of Attar Singh was cancelled, but at the same time, from that document at least it is proved that Attar Singh was recorded as Khatedar tenant of the particular land. Learned counsel for the petitioners also referred the revenue record to show that for the same land 597 bigha 7 biswa, the name of Attar Singh was recorded as Khatedar tenant. In next column there is name of other co-sharers, which proves the property to be the joint property. Learned counsel for the petitioners also submitted that since for all four blocks, the Khatedari, measurement and their entries

fully tallied with the schedule produced by the plaintiffs, therefore, the three courts below have committed serious error of law in decreeing the suit of the plaintiffs.

Learned counsel for the petitioners vehemently submitted that the Revenue Board should not have taken the matter lightly when the petitioners seriously raised objection about the existence of any order dated 31st July, 1910 and requested for providing copy of the relevant document from said file to the petitioners and which was not provided to the petitioners. Learned counsel for the petitioners also submitted that the petitioners claimed declaration and partition and, therefore, can get the possession of the property from the defendants after getting the declaration of their Khatedari rights and, therefore, they filed the suit for declaration and partition as without declaration of Khatedari rights they could not have claimed partition of the agricultural land and share in the property demarcated and separated.

Learned counsel for the respondents submitted that the writ petition deserves to be dismissed because of the reason that three courts below considered all evidence and

recorded finding of fact and the Article 227 of the Constitution of India is not an appellate jurisdiction as fourth appeal in the matter arising out of a regularly instituted suit. Learned counsel for the respondents relied upon the judgment of the Hon'ble Supreme Court delivered in the case of Mohd. Yunus Vs. Mohd. Mstaquim reported in AIR 1984 SC 38. On merits, learned counsel for the respondents submitted that the petitioners themselves have placed on record all the documents, which they want to rely and the matter before this Court is not in its actual original jurisdiction where the parties are required to plead and prove the facts by evidence for the first time and can plead the facts and produce evidence, which were not the facts or evidence before the court of first instance. The contesting private respondents through their counsel clearly submitted before this Court that they do not want to file reply to the writ petition and they can show that from the documents produced by the petitioners themselves, the writ petition deserves to be dismissed. The said contention of the respondents was taken note of by this Court in its order dated 5th March, 1997 itself. Therefore, the contention of

learned counsel for the petitioners that it is mandatory for the respondents to file reply affidavit in writ of certiorari, has no force as it is the choice of the respondents to file reply or not to file reply. It is submitted that because of not filing of the reply to the writ petition, the writ petition cannot be allowed and the legal order passed by the Subordinate courts cannot be set aside. The jurisdiction of the High Court under Article 227 of the Constitution of India is of limited nature and Court can look into the correctness and legality of the order impugned of Subordinate Court and that too, within jurisdiction, which allows interference by the High Court in the order passed by the court of law.

Learned counsel for the respondents submitted that the file no.945 was produced in the trial court by the official person who brought it from proper custody. The opportunity was given to the plaintiffs to cross-examine the said witness, who brought the record and the plaintiffs cross-examined the witness. The same record was before the Revenue Appellate Authority as well as before the Board of Revenue. In the trial court itself, the witness clearly stated that the record was in mutilated condition and,

therefore, copy of the record was not given. Admittedly, the record was very old and it came before the Board of Revenue from Archives Department from the Bikaner. The members of the Board of Revenue looked into the record and mentioned that from record, it is proved that the Khatedari rights of Attar Singh was cancelled by order dated 31st July, 1910. The petitioners-appellants before the Board of Revenue themselves applied for the copy of the order dated 31st July, 1910 from the said file no.945 and it is nowhere case of the plaintiffs-petitioners-appellants that the record was in fact, not reached to the Board of Revenue. Therefore, all contentions with respect to record were not before the Revenue Appellate Authority or before the Revenue Board are only after thought as well as have been raised only to prejudice the court. The petitioners cannot deny that the record was, in fact, produced in the trial court and it was before the counsel for the petitioner who cross-examined the witness and the petitioners themselves have placed on record the statement of said witness DW-2- Banwarilal, which is marked as Annex.13. It is also pointed out by learned counsel for the respondents

that the objection which has been raised before the Revenue Appellate Authority about the said file no.945 was never raised before the first appellate court by filing review petition nor it was raised in the memo of second appeal before the Board of Revenue, which is clear from the copies of the two appeals submitted by the petitioners themselves alognwith the writ petition. Therefore, the petitioners cannot be allowed to raise such an argument whereby the petitioners want to dispute question of fact recorded by the court below in the proceedings of the courts below. Without raising objection before the Board of Revenue that in fact the record was not with the Board of Revenue and the Board of Revenue wrongly mentioned that Board of Revenue looked into the record, the objection of the petitioners cannot be even looked into in writ jurisdiction. Learned counsel for the respondents further submitted that in fact in present case plaintiffs failed to prove their any right, title or interest in any of the agricultural land in Rajasthan held by the defendants. The plaintiffs want to claim rights in the land, which were separately purchased by three brothers and in the land in which Attar Singh

abandoned his right about 50 years ago.

I considered the submissions of learned counsel for the parties and perused the record of the writ petition as well as record of the trial court because of the reason learned counsel for the petitioners tried his best to refer several documents, which we read.

The basic facts, which were pleaded by the plaintiffs were that the plaintiffs and defendants ancestors constituted a joint family and they had joint agricultural land and out of the income of that land of Punjab, the property was purchased in the State of Rajasthan at Gurusar. For this there is no oral evidence except word of mouth of one of the plaintiff without there being any detail facts. The plaintiff did not disclose his source of knowledge inspite the fact in ordinary course the plaintiff could not have personal knowledge of the fact pleaded in the plaint and stated in the evidence as he was of the age of 40 years only in the year 1971 when his statement was recorded and alleged purchase of properties were of the year before 1910. It appears from old documents that plaintiffs may have found entry of name of their ancestor in revenue

record of the land situated in Rajasthan and based their claim on the basis of said mere entries even when it is admitted case of the plaintiffs themselves that the person in whose name there is entry in revenue record left the Rajasthan about 50 years ago. The only plaintiffs' statement is that their home is in the village at Rajasthan but that statement is without pleading. Further for this also, except statement of plaintiff there is no evidence.

The plaintiffs nowhere stated even in which year the dispute arose between the plaintiffs and defendants because of which partition was affected of the Punjab properties. The plaintiffs did not plead what was the reason for partial partition of the immovable properties when dispute already ocurred between the parties. The plaintiffs even did not give the particulars of the partition in plaint or in evidence of the Punjab properties. The plaintiffs produced on record copies of the revenue record Ex.3 and Ex.5 of the agricultural land of Punjab wherein there are names of several persons have been shown in the revenue record and there is mention of share of those persons in various agricultural land. These documents are of the

Samwat Year 1988 corresponding to the English calender year 1930. Then the Punjab properties were divided about 39 years ago and plaintiffs filed the present suit for declaration and partition in the year 1969, i.e., after about 39 years from the alleged partition of the properties at Punjab. Therefore, firstly there is no corroborative evidence on the question of fact that properties in Rajasthan were purchased out of the income of the joint Hindu family properties and secondly there is no explanation for partial partition. However, these questions were not taken note of by the courts below but are apparent from the record. The other reasons given by the three courts below are also valid reasons for holding that the plaintiffs failed to prove the purchase of the properties by joint Hindu family income or jointly by ancestors of the plaintiffs and defendants and in fact so for as purchase of the properties in Rajasthan but of joint Hindu family income or by joint Hindu family or by copacerner is concerned, there is no trustworthy evidence.

Be that as it may, it is admitted case of the even plaintiffs that Attar Singh was living in Punjab and 10 years before his death he became blind. However, admittedly,

the plaintiffs and their ancestor were not in possession of the suit property that is agricultural land, obviously before the time of coming into force of the Rajasthan Tenancy Act. There is other possibility. The properties (whether purchased jointly or ancestral much before the year 1930 at Punjab) where partitioned several decades ago and there is no reasonable reason to presume that there was partial partition of immovable properties then it appears that Attar Singh himself in his life time get the complete share in the property or he abandoned the agricultural land of Rajasthan.

The plaintiffs could produce the documents showing entry of name of Attar Singh in *Misal Bandobast* of the year from Samwat Year 2008-11 whereas Rajasthan Tenancy Act came into force in the Samwat Year 2012. Since 2012, i.e., from 1956 to 1969 no action was taken by the plaintiffs for getting the entries corrected if they were wrongly changed by the revenue authorities also proves that for the reasons best known to Attar Singh and not known to the petitioner -successor of Attar Singh, Attar Singh never claimed share in the properties in dispute nor claimed

income earned from these properties.

Assuming for the sake of arguments that there is no order of cancellation of entries as alleged by the defendants then also the plaintiffs cannot claim right merely on the basis of the entries made in the revenue record in the Samwat Year 2008-2011 alone and without proving that how the land was purchased by said Attar Singh. So far as rest of the land – the land of block no.1 mentioned in schedule '*Ka*' is concerned, learned counsel for the petitioners submitted that land was joint land and land of block no.1 measuring 597 bigha 7 biswa was land of Attar Singh alone and in support of this contention learned counsel for the petitioners relied upon *Misal Bandobast* and *Jamabandi* of the Samwat Year 2008-2011. The case of the plaintiffs in the plaint, as pleaded in the plaint, was not that Attar Singh was sole Khatedar tenant of land of block no.1 measuring 597 bigha 7 biswa. In the plaint the plaintiffs annexed schedule '*Ka*' wherein the plaintiffs clearly mentioned that the land measuring 597 bigha 7 biswa was also the joint land of the ancestors of plaintiffs and defendants. The plaintiffs' plaint's averments are self-

contradicted by the entry of name of Attar Singh alone as Khatedar tenant of the land of block no.1 measuring 597 bigha 7 biswa. It is true that in other column there is a mention of name of other persons, but that cannot help the plaintiffs because of the reason that plaintiffs failed to explain how it went in common hotchpotch. The Revenue Board has considered this aspect in detail in its order impugned in para no.27 and thereafter, reached to the conclusion that the plaintiffs failed to prove the holding to be the joint holding or ancestoral property or the property purchased from the income of ancestor property or out of income from joint property. This Court even after going through the documents is of the view that in fact, the settled possession, which was going on since about the year 1910, almost as it was about century ago, is now sought to be disturbed by seeking a relief of setting aside of the judgments of three courts below by exercising powers under Article 227 of the Constitution of India on the basis of grounds like questioning the existence of file no.945 without questioning it as such in memo of appeal before the court below.

So far as contention of learned counsel for the petitioner that the Revenue Appellate Authority and the Board of Revenue did not supply the copy of the order dated 31st July, 1910 is concerned, it appears that the objection has been raised even when the original file was before the trial court and petitioners-plaintiffs were allowed to cross-examine the person who brought the file in the court as witness. The petitioners' cross-examination of the witness who brought the file in the curt is brief and no suggestion was given to the said witness that said file was not relevant file and from said file no efforts have been made to prove the fact that in fact, the file no.945 relate to some other matter and of some other person. The petitioners were well aware that the matter was relating to very old case and the witness who brought the file PW-2 Gulab Chand from Government record, was witness of none-else-than plaintiffs' themselves witness. Then it was the duty of the plaintiffs to obtain the copies of the order-sheets as well as the other relevant documents from the file, which was produced by their own witness before the court below to prove that the file no.945 decided on 31st

July, 1910 was not the file of the case of cancellation of Khatedari of Attar Singh. For the reason best known to the plaintiffs-petitioners when their own witness PW-2 on the basis of record of file no.945 gave reference to one application filed by Kalyan Singh, did not choose to get the statement of witness with respect to file no.945. There was no reason for the plaintiffs for not asking any question to the concerned witness about even Khasra no which was dealt with in the file no.945 or about the name of the person against or in favour of whom, the order was passed in the said file. Merely because there is mention of application of Kalyan Singh or Hanuman Singh in the file no.945, it cannot be presumed that the file was belonging to those persons. There may be possibility that they may be party in the said file or they may be complainant for getting the land of the Attar Singh cancelled, but these presumptions are the presumptions only and the arguments of learned counsel for the petitioners that the file no.945 was of any Kalyan Singh or Hanuman Singh referred in the statement of PW-2 Gulab Chand cannot be the only fact which can be presumed.

The submission of learned counsel for the petitioner that the certified copy of the order dated 31st July, 1910 was not delivered to the petitioners by the Board of Revenue despite Board of Revenue's clearly direction deserves to be rejected as the petitioners failed to substantiate this argument and the petitioners did not produce any certified copy or un-certified copy of their own application wherein there must have been some order either of delivery of copy or of rejection of their application for copy. Otherwise also, the plaintiffs' counsel could have inspected the file as per the rules and could have taken copy of the contents of the entire file. The plaintiffs' further failed to give any reason if that copy was not made available to the counsel for the petitioners then why they did not object before the Board of Revenue that despite the order of the Board of Revenue, the certified copy of the order passed in file no.945 was not delivered to them. It appears petitioners want to extract much out of nothing by raising this type of arguments. This Court while exercising powers under Article 227 will not like to doubt the three courts, who examined the file no.945 and no useful purpose

can be served by summoning the said record now in writ when the file was already in mutilated condition. Therefore, it is not in the interest of justice to call the record of file no.945 because of the reason that if there is no order of cancellation of Khatedari rights of Attar Singh even then the petitioners failed to establish their subsisting right for declaration of Khatedari rights in the facts of this case and because of the reason admittedly, the person in whose name there is alleged entry in the revenue record had left the land and even the revenue authorities about 50 years ago from the time of filing of the suit by the plaintiffs made changes in revenue record and which was not challenged by the plaintiffs' ancestor himself in his life time.

In view of the above reasons though learned counsel for the petitioners submitted written synopsis as well as other judgments also, which are taken on record, but in view of the facts mentioned above, I do not find any merit in the writ petition. Hence, the writ petition of the petitioners is dismissed and no detail discussion is required to be made upon the judgments cited by learned counsel for the petitioners because question of facts have been decided

by the three courts below after considering all the evidence.

(PRAKASH TATIA), J.

c.p.goyal/-